UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,626	12/21/2001	Brian G. Morin	5390	1493

7590 07/30/2004

Milliken & Company
P.O. Box 1927
Spartanburg, SC 29304

EXAMINER	
TENTONI, LEO B	

ART UNIT	PAPER NUMBER
1732	

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/027,626	MORIN ET AL.	
	Examiner	Art Unit	
	Leo B. Tentoni	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 June 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,7 and 9-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4, 7 and 9-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The objection to the abstract set forth in the previous Office Action (mailed on 23 January 2004) is withdrawn.

2. The portion of the rejection under 35 USC § 103(a) set forth in the previous Office Action (mailed on 23 January 2004) based on the patent to Morin et al (U.S. Patent 6,656,404) has been withdrawn because applicant has stated (paper submitted on 11 June 2004) that the instant application and the patent to Morin et al have at all times been commonly owned by the same entity. A terminal disclaimer is not required at this time principally because the instant claims and the claims of Morin et al are not obvious variations (e.g., the claims of Morin et al do not recite a quenching step; the instant claims do not recite the shrinkage values recited in the claims of the Morin et al patent).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-4, 7 and 9-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the

inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 1, last two lines, the drawing temperature in degrees Celsius is new matter (the specification discloses drawing temperature in degrees Fahrenheit). In claim 7, the drawing temperature in degrees Celsius is new matter (the specification discloses drawing temperature in degrees Fahrenheit). In claims 9 and 10, the heat setting temperature in degrees Celsius is new matter (the specification discloses heat setting temperature in degrees Fahrenheit).

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2-4, 7, 9-11 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 2 and 3, ``step a'' does not have clear and proper antecedent basis principally because claim 1 does not positively recite a ``step a'' .

Claim 7 does not further limit the subject matter of claim 6 because claim 6 has been cancelled.

In claims 9 and 10, ``the heat setting temperature'' does not have clear and proper antecedent basis principally because claims 1, 2 and 4 do not positively recite a heat setting step.

In claim 10, it is not clear if this claim depends from claim 9 or claim 4 (the numeral ``9'' was added by amendment, but the numeral ``4'' does not appear to have been struck out).

In claim 11, ``step b'' does not have clear and proper antecedent basis principally because claim 1 does not positively recite a ``step b'' .

Claim 13 does not further limit the subject matter of claim 5 because claim 5 has been cancelled.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and

potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-4, 7 and 9-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujishita et al (U.S. Patent 4,560,734) in combination with Inoue (JP 2001-081628).

For purposes of claim interpretation, the examiner assumes that the temperatures (for drawing and heat setting) in claims 1, 7, 9 and 10 should be in degrees Fahrenheit, not in degrees Celsius.

Fujishita et al (see the entire document, in particular, col. 1, lines 7-12; col. 7, line 41 to col. 8, line 36; Examples; Tables 1 and 3) teach a process of making polypropylene tape fibers as set forth in the instant claims, except for the amount of nucleator compound (Fujishita et al do teach the use of a nucleator compound). Inoue (see the entire translation, in particular, the abstract and claim1) teach the use of a nucleator compound (in a polypropylene composition) in the claimed amounts and it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the disclosures of Fujishita et al and Inoue principally in order to produce polypropylene tape fibers having desired properties (e.g., improved shrink rates).

Response to Arguments

10. Applicant's arguments filed on 11 June 2004 have been fully considered but they are not persuasive. Applicant argues (page 10) that Fujishita et al teaches slow cooling, not immediate

quenching as claimed (citing col. 2, lines 10-17 of Fujishita et al). Examiner responds that the cited portion (col. 2, lines 10-17) of Fujishita et al is a description of the prior art and not of the invention of Fujishita et al. Note that Fujishita et al teach that after extrusion from a die, the extrudate is cooled (e.g., air cooling, water bath, chilled roll) and, absent any heating means at the die exit, cooling commences as the extrudate emerges from the die. While the other cited portion of Fujishita et al (col. 8, lines 49-51, part of Example 1) does not teach a nucleating agent, Fujishita et al do teach the use the use of a nucleating agent (note col. 7, lines 40-45) and a reference is not limited to the examples in the reference (*In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968); *In re Lamberti*, 545 F.2d 747, 750, 192 USPQ 278, 280 (CCPA 1976)). Applicant argues (pages 10 and 11) that since Inoue teaches adding a nucleating agent to speed up crystallization, it would be counter-intuitive to add a nucleating agent and then immediately cool so as to prevent crystal orientation. Examiner responds that Inoue teaches (example, pages 4 and 5) a process including the steps of forming a mixture (including a nucleating agent), forming the mixture into a tube by atubular film process, cooling and forming into tape fibers. Just as in the instant process, cooling occurs after formation and the material which is cooled comprises polypropylene and a nucleating agent. Thus, it does not appear to be counter-intuitive to add a nucleating agent and then cool.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (571) 272-1209. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni can be reached on (571) 272-1196. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Leo B. Tentoni

Leo B. Tentoni
Primary Examiner
Art Unit 1732

lbt